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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,623	07/07/2003	Arnold I. Klayman	SRS LABS.053C3	7854
29995 7590 06/16/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
LEE, PING				
ART UNIT		PAPER NUMBER		
2615				
NOTIFICATION DATE		DELIVERY MODE		
06/16/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/614,623

Applicant(s)

KLAYMAN, ARNOLD I.

Examiner

Ping Lee

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15, 17-22 and 27-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-15, 17-22, 27-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-22, 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klayman (US 4,748,669) in view of Bauer (US 5,832,438).

Regarding claims 17-22, 27-31, Klayman shows, in Fig. 2, an audio enhancement system comprising a difference circuit (11), an equalizer (18, 19) and a summing circuit (25). Klayman fails to show a first and second high pass filters and the output signals from the summing circuit including frequency of a set of lower frequencies filtered out by the first and second high pass filters.

As shown in Fig. 5A of Klayman, the frequency response of the equalization has a maximum gain for very low frequency (20 Hz). One skilled in the art would have expected that the speaker, especially small speaker, would be overly driven at 20 Hz if the amplification is at its maximum. Bauer teaches a more reasonable and realistic equalization using a DSP for improving sound quality produced by small speakers. As shown in Fig. 3, the equalization is at maximum between 100 and 200 Hz and then the gain decreases as the frequency decreases after the maximum gain frequency. Thus, it would have been obvious to one of ordinary skill in the art to modify Klayman in view of Bauer by modifying the equalization in order to having the maximum gain between 100-

200 Hz and decreasing the gain as the frequency decreasing from this maximum gain frequency in order to improve the sound quality generated from small speakers.

Regarding claims 1-8 and 10-15, Klayman fails to show the first and second high pass filters. Klayman teaches that the sound above 30 Hz is going to be equalized (col. 9, lines 47-48 and Fig. 5A) and the maximum gain also applied to frequency below 100 Hz. Bauer teaches that, for small speakers, the maximum gain should be between 100-200 Hz and the gain should decrease below this maximum gain frequency as the frequency decreasing. It was well known in the art that high pass filters, a simple device, could be used to limit the signal in terms of frequency to be applied to the equalizer. By limiting the signal applied to the equalizer that having maximum gain between 100-200 Hz, frequency lower than this range would not be boosted. Thus, it would have been obvious to one of ordinary skill in the art to modify Klayman in view of Bauer by using high pass filters to limit the bandwidth that a signal is to be emphasizes in order to improve sound quality generated from small speakers.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

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F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 27-31 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 11/777,127 in view of Bauer.

Claim 1 of application '127 fails to specify the frequency response at a third set of frequencies and a fourth set of frequencies. Bauer teaches that, for small speakers, the equalization should be performed as shown in Fig. 3 with first, second, third and fourth set of frequencies being illustrated as their corresponding boosting or attenuating. Thus, it would have been obvious to one of ordinary skill in the art to modify application '127 in view of Bauer to modify the equalization by including the adjustment for the third and fourth set of frequencies in order to improve the sound generated from small speakers.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 10, 17, 27, 28 and 30 have been considered but are moot in view of the new ground(s) of rejection.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ping Lee whose telephone number is 571-272-7522.

The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ping Lee/
Primary Examiner, Art Unit 2615

pwl